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August 28, 2013

By Electronic Mail

Honorable Lorna G. Schofield
United States District Judge
United States District Court
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

**Re: *Sachin Shah v. Justin Lumiere, et al.*,
Index No. 13-CV-02975 (S.D.N.Y.)(LGS)**

Dear Judge Schofield:

This firm is new counsel to Plaintiff Sachin Shah. My firm's Notice of Appearance, a copy of which is attached, has been filed.

I write in response to the letter dated August 23, 2013, by Steven E. Mellen, an attorney for Defendant Justin Lumiere, and in opposition to the application contained in Mr. Mellen's August 23 letter for reconsideration of this Court's Order dated August 22, 2013. What is stated in Mr. Mellen's letter does not reflect anything that this Court overlooked or misapprehended in issuing the Order dated August 22, 2013. Instead, Mr. Mellen's letter consists of various ill-considered complaints that are woefully inadequate to justify Mr. Mellen's application.

Mr. Mellen complains basically about having to respond to the Complaint and asks for the Court to reconsider and grant a 30-day extension to respond to the Complaint, citing Justin Lumiere's affidavit that blames Defendant Lester Levy for the clearly defamatory, tortiously interfering and financially damaging e-mails that are the subject of Plaintiff Sachin Shah's meritorious Complaint. Yet, Mr. Mellen in his August 23 letter also conveys the request of counsel for Defendant Lester Levy for the same 30-day extension of time to respond to the Complaint. Such cooperation by counsel for Defendants who would seem to have conflicting interests suggests caution in considering Justin Lumiere's representations before any formal answer to the Complaint

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has been filed and before any discovery has been conducted.

Suffice it to be said that what is needed in this case is for this case to proceed apace under current deadlines. Counsel for the Defendants had plenty of time previously in this case to negotiate successfully a settlement, but were not successful. Mr. Mellen states that he “hopes that continued discussions with plaintiff’s new counsel may prove fruitful,” but that is no basis at all for further delay. Further, it is clear to new counsel for Plaintiff that the parties were not really close to reaching settlement and that Defendants just want more delay. This Court’s Order dated August 22, 2013 should stand as is.

**Very truly yours,
NESENOFF & MILTENBERG, LLP**

**By: Philip A. Byler, Esq.
Philip A. Byler, Esq.**

cc: Steven E. Mallen, Esq. (by electronic mail) - Defendant Justin Lumiere
Lawrence P. Eagle, Esq. (by electronic mail) - Defendant Lester Levy
Robert N. Knuts, Esq. (by electronic mail) - Defendant Stefan Lumiere

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